

RM 8577

OFFICE OF COMMISSIONER RACHELLE B. CHONG
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April 18, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Barbara Waldman
Mayor
City of Sunnyvale
456 West Olive Avenue
Sunnyvale, California 94086

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Re: Cellular Telecommunications Industry Association's Petition to
Preempt State and Local Zoning Regulations

Dear Mayor Waldman:

Thank you very much for your letter about the petition filed by the Cellular Telecommunications Industry Association (CTIA). This petition asks the Commission to begin a rule making proceeding to preempt state and local regulation of tower siting for commercial mobile radio service providers, such as cellular and personal communications service (PCS) companies. I am very interested in this issue, and welcomed the opportunity to hear your thoughts on it.

I certainly understand your concerns about the CTIA petition and its impact on the role of local jurisdictions in the cell siting process. Traditionally, cell siting issues are handled at the local level. By and large, this situation has been appropriate, given that zoning and land use issues involve uniquely local concerns, such as aesthetics and compliance with local building codes or other health and safety codes. I believe local authorities should continue to play a key role in these decisions.

However, as the demand for sites for wireless carriers continues to mushroom, I am also concerned about the ability of wireless providers to build out their networks without undue delay. There are many benefits to having national or regional wireless communications systems -- emergency communication abilities are enhanced, and people use wireless communications to become more efficient and productive. Further, new PCS licensees are paying the U.S. treasury billions of dollars for their licenses, which are regional and national in nature. I think it's fair for the federal government to ensure that these licensees are able to build their facilities throughout their service areas in a timely fashion. Moreover, some carriers complain that some localities may like to put a moratorium on all wireless cell sites in

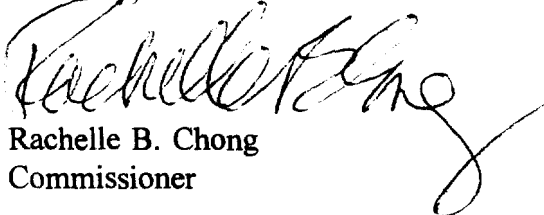
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certain geographic areas. For this reason, I believe the Commission also has an important role to play in this area to ensure ubiquitous and broad coverage without undue delay.

Having said that, I have not yet made any decisions about the CTIA petition. I believe that the Commission must balance the federal interest in ensuring the development of a competitive, efficient mobile services infrastructure against the legitimate interests of local governments in regulating zoning and land use matters. I am open to considering all options available to the Commission to strike the appropriate balance, and hope that you will work with us to find an acceptable solution for both our concerns.

I appreciate your taking the time to share your concerns with me. I will certainly keep them in mind as we consider the CTIA petition.

Sincerely,



Rachelle B. Chong
Commissioner

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CITY OF SUNNYVALE

The Heart of Silicon Valley

456 WEST OLIVE AVENUE SUNNYVALE, CALIFORNIA 94086 (408) 730-7470

March 8, 1995

Barbara Waldman
Mayor

Stan J. Kawczynski
Vice Mayor

Richard Napier
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Councilmember

Robin N. Parker
Councilmember

Jim Roberts
Councilmember

Frances Rowe
Councilmember

The Honorable Rachelle Chong
Commissioner
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20036

Dear Commissioner Chong:

I am writing on behalf of the City of Sunnyvale to oppose the Cellular Telecommunications Industry Association's Petition for Rule Making (RM-8577).

The cellular industry is seeking federal control over the siting of cellular towers. While we support competition in the telecommunications market, we strongly oppose efforts to preempt state and local governments from enforcing zoning and other similar regulations. This is an unnecessary and unwarranted intrusion on local control. Cities have, and must maintain, authority over land use decisions within their boundaries.

It is ironic that at a time when the Congress is rushing to devolve services to state and local jurisdictions, the FCC seems intent on locking local government out of any role in the telecommunications area. Currently, the California Public Utilities Commission (CPUC) has the authority to grant cellular utilities the right to construct, install, and modify facilities. The CPUC ensures that local community issues have been fully considered. There is no indication that local communities automatically or even routinely deny permits to cellular companies. Therefore, we do not see the need for this proposed rule.

Local governments must maintain control over local land use decisions. Thank you for your consideration of our concerns.

Sincerely,


Barbara Waldman
Mayor